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**National Oceanic and Atmospheric Administration**  
**NATIONAL MARINE FISHERIES SERVICE**  
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Refer to:

OSB2000-0121

June 2, 2000

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Re: Extension of the June 4, 1999 Programmatic Biological Opinion Incidental Take Statement for Forest Service, BIA/Coquille Indian Tribe and BLM Actions Affecting Oregon Coast Coho Salmon and Adoption of the June 4, 1999 Programmatic Conference Opinion on Proposed OC Coho Salmon Critical Habitat as a Biological Opinion for Designated OC Coho Salmon Critical Habitat

Dear Agency Administrators:

This responds to your April 20, 2000 letter requesting an extension of the incidental take statement (ITS) for certain "likely to adversely affect" (LAA) programmatic actions addressed in the June 4, 1999 Biological Opinion (Opinion) issued by the National Marine Fisheries Service (NMFS). The programmatic actions described in the subject Opinion are considered "likely to adversely affect" threatened Oregon Coast (OC) coho salmon (*Oncorhynchus kisutch*) and/or OC coho salmon designated critical habitat. The Opinion covers coastal basins south of the Umpqua River to Cape Blanco within the Oregon Coast coho salmon Evolutionarily Significant Unit (OC coho ESU). In addition, in response to an April 3, 2000 request from Harv Forsgren, United States Forest Service (USFS) and Elaine Zielenski, Bureau of Land Management (BLM), NMFS hereby adopts the June 4, 1999 conference opinion for OC coho salmon proposed critical habitat as a biological opinion for designated OC coho salmon critical habitat.



Because the agencies have been working collaboratively to refine terms and conditions to minimize incidental take from programmatic activities, NMFS initially chose to limit the incidental take statement (ITS) in the June 4 Opinion to a one year period so that it could be reviewed and improved if necessary at the end of the one year period. The ITS required specific project monitoring data be collected by the action agencies and provided to the NMFS for review prior to extending the ITS for a subsequent term.

In the April 20 letter, the action agencies provide a summary of actions, by project category, that have been implemented since issuance of the June 4 Opinion and conclude that the effects of the actions remain within the scope of effects described in the Opinion. In addition, the letter provides project design criteria for all project categories. The action agencies indicate that programmatic actions which may occur in the foreseeable future will remain at similar levels. Effects of these programmatic actions will be further reduced through the implementation of the new project design criteria, and will not exceed the scope of the incidental take statement issued in the June 4 Opinion. This consultation on Federal actions is conducted under section 7(a) (2) of the Endangered Species Act (ESA), and its implementing regulations, 50 CFR Part 402.

The listing of OC coho salmon (*Oncorhynchus kisutch*) as a threatened species under the ESA became effective on October 9, 1998 (63 FR 42587). NMFS proposed critical habitat for OC coho salmon on May 10, 1999 (64 FR 24998), which became final on March 17, 2000 (65 FR 7764). OC steelhead (*O. mykiss*) were determined to not warrant listing on March 19, 1998 (63 FR 13347), and the previously endangered Umpqua River cutthroat were delisted on April 20, 2000, following NMFS' determination that they are part of a larger ESU not warranted for listing. As a result, this letter applies only to the threatened OC coho salmon and their designated critical habitat.

In this letter, NMFS: Lists the programmatic actions covered in the existing programmatic Opinion for which the agencies request an extension, incorporating by reference the more detailed descriptions provided in the Opinion and the programmatic design criteria provided with the request for consultation; outlines the NMFS approach for renewal or extension of existing ITS for programmatic opinions described in an April 11, 2000 letter from the NMFS to the Regional Forester, Pacific Northwest Region, USDA Forest Service and State Director, OR/WA, USDI Bureau of Land Management; and applies that approach in deciding to extend the ITS from the June 4 Opinion for an additional one year period.

## **CONDITIONS FOR EXTENDING AN EXISTING PROGRAMMATIC OPINION**

The April 11, 2000 letter from NMFS to the USFS and BLM outlined NMFS' approach to determining whether to renew existing programmatic incidental take statements or to reinstate consultation pursuant to section 7 of the ESA. The approach is summarized below and is used here to

evaluate whether the Federal action agencies have provided the requested information NMFS considers necessary to assess whether to extend the June 4 ITS.

1. NMFS will review action agency monitoring reports.
2. NMFS will review relevant new information, including the on-going Southwest Oregon Province programmatic consultation.
3. NMFS will make a determination to either extend the ITS in the subject Opinion or to reinstate section 7 consultation on the activities within the Opinion.
4. NMFS will issue new ITSs for the programmatic actions addressed in the Opinion.
5. NMFS will notify the action agency offices of its final determination within 30 days of the receipt of the monitoring report.

### **PROGRAMMATIC ACTIONS COVERED IN THE JUNE 4, 1999 OPINION**

The following action descriptions are taken from the April 20, 2000 request for an ITS extension. They describe actions currently being implemented under the June 4 Opinion and mirror those described in the ongoing programmatic consultation under development by the joint Level 1 Team for SW Oregon. Only those actions described below are included in the request for extension.

#### **Road Maintenance**

Included in this category of programmatic actions are those which: 1) Maintain safety, control/prevent road erosion and sedimentation and maintain or restore hydrologic function; 2) enable public use of dispersed recreation sites; 3) maintain roads using heavy equipment, including surface maintenance (grading, leveling), drainage maintenance, installation, replacement, or repair (ditch-lines, water dips, cross-drain culverts, and water bars), vegetation management (brushing, limbing, seeding, mowing, and mulching), road cut and fill repair/stabilization, surface repair/replacement (paving, repaving, chip-sealing and rocking), small slide removal (i.e., routinely, quickly, and easily handled with typical maintenance equipment), snow-plowing, dust abatement, and maintenance and repair of structures (guardrails, signs, relief and stream crossing culverts, bridges); 4) clean culverts and retain all large woody material (LWM) in stream channels and minimize sediment mobilization; and, 5) immediately stabilize storm-damaged roads to prevent or minimize adverse hydrologic effects or transmission of sediment into streams and other water bodies. This category is not applicable for deferred major storm damage repairs or major storm damage repairs performed solely to maintain vehicle traffic.

#### **Aquatic and Riparian Habitat Projects**

Aquatic habitat projects are completed for the purpose of restoring fish spawning, rearing, and migratory conditions in streams and lakes. Aquatic habitat projects are constructed or created within the stream channel or the immediate flood plain to improve aquatic habitat, channel stability or fish

passage, and the maintenance thereof. This includes the placement of large woody material (LWM; whole trees or portions of trees), boulders and gravel into the channel, excavation of side channels and alcoves, riparian silvicultural activities, and stream bank and channel stabilization. Project access roads are rehabilitated with techniques which include seeding, waterbars, ripping and blocking. Passage improvements include the replacement of barrier culverts with passable culverts, pipe-arches or bridges; construction, maintenance, and cleaning of fish ladders and placement/construction of sills (boulder, wood, concrete) to improve access to culverts. Work may be accomplished using manual labor, heavy equipment or helicopters and may involve the use of this equipment in the stream channel.

### **Recreation Site, Trail and Administrative Structure Maintenance and Public Use**

This category of actions includes those which provide access to and use of public recreational activities (at campgrounds, picnic areas, trails, boat ramps, etc.) and Federal land administration, including safety and property damage reduction. This category also includes tree hazard management along Federal roads. Program activities consist of tree hazard management (at developed and dispersed recreation facilities, along roads and trails, at rights-of-way, and for adjacent non-Federal land), facility maintenance, repair, and upgrade, trail maintenance, repair, and upgrade (including that of stream crossings; typically using hand tools, hand power tools, small motorized equipment), brushing, tread work, saw-out of downed trees within trail. Upgrade of facilities or trails will not result in a more adverse situation for listed and proposed fish species. Trails authorized for use by motorized Off-Highway Vehicles (OHV) are not included in this category.

### **Fisheries, Hydrology, Wildlife, Botany and Cultural Program Activities**

This category of actions include those which assess and monitor aquatic and riparian habitat conditions; assess and monitor individuals and communities of vertebrate, invertebrate and botanical species; assess cultural and historic resources; and educate the public about aquatic and riparian resources/values. Program activities consist of aquatic habitat inventories, spawning surveys, fish presence surveys, snorkeling surveys, aquatic macroinvertebrate collecting, riparian vegetation surveys, wildlife surveys, water quality monitoring, cultural resource assessments (including excavating test pits <1m<sup>2</sup> in size), and supervised school and public education (including Salmon Watch) activities.

### **Non-Commercial Vegetation Treatments**

This category of actions includes non-commercial vegetation treatment: 1) Conducted with manual or light powered equipment (i.e., does not include the use of bulldozers, excavators, etc.); 2) that reduce competition or predation; 3) that collect plant material; 4) that prevent and control the spread of non-native vegetation; and 5) that enhance habitat for native vegetation and/or wildlife. Program activities consist of preparing planting sites (typically using chainsaws, machetes and other similar hand or power tools); controlling brush and pruning using hand and power tools; pre-commercial thinning of young trees (typically 2"-8" dbh); controlling animal damage by trapping, tubing, rodent baiting, or other

manual method; controlling undesirable vegetation using hand application of herbicides and fertilizer; planting trees and other desired vegetation; collecting cones, seedlings, etc.; mulching; meadow mowing and tree topping, girdling, etc. to enhance wildlife habitat; and prescribed burning outside of RR.

### **Pump Chance/Helipond Maintenance and Use**

This category includes actions to maintain access to pump chances and heliponds to support fire suppression and dust abatement activities. Access to pump chances is maintained by removing vegetation from trails to pumper trucks and/or helicopter access points, trees from helicopter loading sites and the installation of boulders (or similar) to increase pool depth. Also included is dredging of heliponds to improve water storage capacity; and installation of drain pipes, rip-rap and liners on ponds. Most pump chances are located on ponds and fish bearing streams, although typically water for fire control is not withdrawn in a given year. Withdrawals from ponds are for fire control, dust abatement, and compacting gravel roads, while withdrawals from streams are limited to fire control.

### **Repair of Storm-Damaged Roads (Including Some ERFO Projects)**

This category includes projects implemented to maintain safety, open access, and prevent further damage to resources resulting from storm-related damage to roads. Projects involve actions such as the removal of large slides; reconstruction, repair or relocation of roads damaged by surface erosion, fill failure, culvert failure and landslides; and stabilization of slopes. Work is accomplished using heavy equipment. Activities should always have a neutral or beneficial effect on sediment regime and/or channel extension. Immediate repair of storm-damaged roads to eliminate or minimize adverse hydrologic and sediment effects on waterways is covered under Road Maintenance.

### **Road Decommissioning/Obliteration/Storm-Proofing/Inactivation**

This category of actions includes removal of those elements of roads that reroute hillslope drainage and present slope stability hazards from unnecessary, unstable, or poorly designed/constructed/ located roads. Also included is dispersed recreation campsite removal. Specific project actions include bridge and culvert removal, removal of asphalt and gravel, subsoiling or ripping of road surfaces, outsloping, waterbarring, fill removal, sidecast pullback, revegetating with native species and placement of LWM and/or boulders, and roadway barricading to exclude vehicular traffic.

### **Telephone Line and Power Line Renewal Special Use Permits/Rights-of-Way Grants**

This category of actions are those which allow for vegetative, road, and pole maintenance associated with the renewal of telephone lines and non-Federal Energy Regulatory Commission-related powerline special use permits. Permitted road maintenance applies only to non-system spur roads needed to access lines. Vegetative maintenance activities consists of brushing understory vegetation, tree limbing, chipping slash, and falling of hazard trees underneath or along telephone line and powerline corridors.

Road maintenance consists of actions which are similar to those described under that programmatic category. Pole maintenance includes repair and replacement of damaged and downed poles and lines. Equipment (backhoes and trucks) are needed to carry, straighten and dig footings for poles. This category does not include use of herbicides. The analysis of effects should include an analysis of the effects of interrelated/interdependent activities which Federal actions enable to occur on non-Federal land.

### **Instream Mining Activities**

This category of activities includes those actions which provide for small-scale placer mining activities within perennial stream channels while protecting surface resources; listed, proposed, or candidate salmonids; and water quality. Activities include small-scale gold mining practices such as panning; operating non-motorized sluice boxes, concentrators, and mini-rocker boxes; and operating motorized suction dredges with intakes not greater than 6". These activities are conducted pursuant to a NOI response letter and the operator's State mining permits (ODSL fill & removal and ODEQ discharge). The NOI response letter contains sufficient information to minimize take of listed, proposed, and candidate species. These actions do not reduce channel stability or impair natural stream hydraulics.

The table below presents a summary of Federal agency actions covered by the June 4, 1999 Opinion for which an ITS extension is being requested, and summarizes the extent of the actions implemented since issuance of the June 4, 1999 Opinion.

<b>Program Description</b>	<b>Activities Reported</b>
Road Maintenance	Roseburg BLM: 1 mile maintained Siskiyou NF, Powers RD: 1 mile maintained Coos Bay BLM: 317 miles maintained
Aquatic and Riparian Habitat Projects	Siskiyou NF, Powers RD: 0.5 miles road treated, 1 fish passage culvert replaced, 2 non-fish passage culverts replaced Coos Bay BLM: 3.7 miles road treated, 17 acres riparian reserve treated, 10 fish passage culverts replaced
Recreation Site, Trail and Administrative Structure Maintenance and Associated Public Use	Siuslaw NF, Dunes NRA: 4 sites, 2 trails maintained Coos Bay BLM: 5 sites maintained
Fisheries, Hydrology, Wildlife, Botany and Cultural Program Activities	Siskiyou NF, Powers RD: 5 miles stream surveyed Siuslaw NF, Dunes NRA: 1 mile stream surveyed Coos Bay BLM: 58 miles stream surveyed
Non-Commercial Vegetation Treatments	No activity
Pump Chance/Helipond Maintenance and Use	Siuslaw NF, Dunes NRA: 1 stream site Coos Bay BLM: 8 stream sites

<b>Program Description</b>	<b>Activities Reported</b>
Repair of Storm Damaged Roads (Including some ERFO Projects)	Siskiyou NF, Powers RD: 0.5 miles repaired Coos Bay BLM: 1.5 miles repaired
Road Decommissioning, Obliteration, Storm-Proofing and Inactivation	Siskiyou NF, Powers RD: 1 mile decommissioned Coos Bay BLM: 1.3 miles decommissioned
Telephone Line and Power Line Renewal Special Use Permits and Rights-of-Way Grants	Siskiyou NF, Powers RD: 2 permits issued Siuslaw NF, Dunes NRA: 2 permits issued
Instream Mining Activities	Siskiyou NF, Powers RD: 20 NOI's Sixes River; 20 NOI's SF Coquille River (none >25cy, 5-10cy/site) Coos Bay BLM: 20-30 activities from 7/15-9/30 with <4 dredges on site at any time

## **EFFECTS OF THE PROPOSED ACTIONS**

The April 20, 2000 letter requesting an extension of the ITS in the June 4 Opinion indicates the action agencies believe the level of effects from the above-described activities are within the scope of effects described in the Opinion. The agencies anticipate similar levels of activities and effects for the foreseeable future, with effects remaining within the scope of the June 4 Opinion. After review of the information and discussions with the Level I team and the respective agencies, the NMFS agrees with the action agencies' assessment of effects.

## **CONCLUSIONS**

NMFS has reviewed the monitoring and reporting information submitted by the Federal agencies requesting an extension of the ITS in the June 4 Opinion for actions affecting the OC coho salmon and their designated critical habitat on Forest Service, BIA/Coquille Indian Tribe and Bureau of Land Management actions in Southwest Oregon. The NMFS participated in several Level I team and agency-specific discussions relative to Opinion implementation, monitoring requirements and Opinion compliance, and agree that the action agencies have complied with the requirements of the Opinion and remain within the scope of action effects described within the Opinion.

In the June 4 conference opinion, NMFS concurred that proposed critical habitat for the subject ESU would not likely be destroyed or adversely modified by the proposed programmatic actions. The effects of the programmatic actions proposed in the BA for the June 4 biological opinion were evaluated by the Level I team at the site, watershed and subbasin scales and this evaluation effectively considered the effects of the proposed actions on OC coho salmon critical habitat. NMFS is aware of no new information that would alter NMFS' conclusions in the conference opinion, and the action agencies have stated that there have been no significant changes to the scope of the proposed actions or

expected effects. Therefore, NMFS adopts the June 4 conference opinion on proposed critical habitat as its biological opinion that the programmatic actions, as proposed, will not destroy or adversely modify designated critical habitat for OC coho salmon.

Based on the information provided by the action agencies, NMFS has determined that reinitiation of consultation is unnecessary, because the scope of the programmatic actions and their expected effects on OC coho salmon and their designated critical habitat remain within the scope of the June 4 Opinion, and all other requirements of the Opinion have been met.

NMFS is aware of and involved in the development of new information that will eventually lead to refinement of terms and conditions to further minimize the likelihood of incidental take from the subject programmatic activities. This process is currently underway, and will likely take several months to complete. NMFS finds it appropriate to extend the ITS from the June 4 Opinion for a period not to exceed one year, as amended below to include additional interim programmatic terms and conditions, including reporting requirements. These interim programmatic terms and conditions are based on the best available information regarding “project design criteria” from the on-going programmatic consultation being developed by the joint SW Oregon Level I team. NMFS expects to amend this ITS as soon as the revised programmatic terms and conditions are completed in the next several months.

## **REINITIATION OF CONSULTATION**

To ensure protection for a species assigned an unquantifiable level of take, the June 4, 1999 consultation must be reinitiated if: (1) The amount of extent of take specified in the ITS is exceeded or is expected to be exceeded; (2) new information reveals effects of the action may affect listed species in a way not previously considered; (3) the action is modified in a way that causes an effect on listed species that was not previously considered; (4) a new species is listed or critical habitat is designated that may be affected by the action (50 CFR § 402.16); or (5) the programmatic consultation upon which this extension is based is terminated.



## **INCIDENTAL TAKE STATEMENT**

Sections 4(d) and 9 of the ESA prohibit any taking (harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to engage in any such conduct) of listed species without a specific permit or exemption. Harm is further defined to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing behavioral patterns such as breeding, feeding, and sheltering. Harass is defined as actions that create the likelihood of injuring listed species to such an extent as to significantly alter normal behavior patterns which include, but are not limited to, breeding, feeding, and sheltering. Incidental take is take of listed animal species that results from, but is not the purpose of, the Federal agency or the applicant carrying out an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to, and not intended as part of, the agency action is not considered prohibited taking provided that such taking is in compliance with the terms and conditions of this incidental take statement.

An incidental take statement (ITS) specifies the impact of any incidental taking of endangered or threatened species. It also provides reasonable and prudent measures that are necessary to minimize impacts and sets forth terms and conditions with which the action agency must comply in order to implement the reasonable and prudent measures. An ITS does not apply to candidate or proposed species. While effects on OC steelhead were considered in the June 4 Opinion, the terms and conditions and reasonable and prudent measures set forth in this ITS do not apply to OC steelhead. Should this candidate species become listed in the future, this ITS would become effective for the species upon adoption of the conference opinion as a biological opinion.

The measures described below are non-discretionary. They must be implemented by the USFS, BLM and BIA so that they become binding conditions necessary in order for the exemption in section 7(o)(2) to apply. The USFS, BLM and BIA have a continuing duty to regulate the programmatic actions covered in this ITS. If the USFS, BLM or BIA (1) Fails to adhere to the terms and conditions of the ITS, and/or (2) fails to retain the oversight to ensure compliance with these terms and conditions, the protective coverage of section 7(o)(2) may lapse.

### **Amount or Extent of the Take**

The NMFS anticipates that some programmatic actions which are fully consistent with the action agency standards and guidelines may still have more than a negligible likelihood to result in incidental take of listed OC coho salmon. Incidental take associated with these programmatic actions is expected from detrimental effects on aquatic habitat parameters including substrate quality, turbidity, and suspended sediment levels, all of which may directly affect the life history of these fish.

Adverse effects of management actions such as these are largely unquantifiable in the short-term, and may not be measurable as long-term effects on the species' habitat or population levels. Therefore, even though the NMFS expects some low level of incidental take to occur due to these actions, the

best scientific and commercial data available are not sufficient to enable the NMFS to estimate a specific amount of incidental take to the species themselves. In these instances, the NMFS designates the expected level of take as "unquantifiable."

This ITS is effective for one year from the date of its issuance. At that time, the NMFS will evaluate the effectiveness of the terms and conditions, including monitoring requirements. The USFS, BLM and BIA will need to reinitiate this consultation to obtain incidental take authorization for any programmatic actions that are beyond the scope of those described in this Opinion.

### **Effect of the Take**

Adverse effects resulting from management actions such as these are largely unquantifiable in the short-term and may not be measurable as long-term effects on the species' habitat or population levels. Therefore, even though the NMFS expects some low level of incidental take to occur due to these actions, the best scientific and commercial data available are not sufficient to enable NMFS to estimate a specific amount of incidental take to the species themselves.

### **Reasonable and Prudent Measures**

NMFS believes that the following reasonable and prudent measures are necessary and appropriate to minimize take of OC coho salmon resulting from individual actions within the categories of programmatic actions described in this Opinion.

1. Incorporate the project design criteria developed by the Level I team, as reiterated below as terms and conditions, for individual actions taken within each of the programmatic action categories.
2. All projects covered by this Opinion shall be documented annually on a report form to be developed by the Level 1 team. Reporting results shall be presented annually to the Level I team by the USFS, BLM and BIA.

## **TERMS AND CONDITIONS**

In order to be exempt from the prohibitions of section 9 of the ESA, the USFS, BLM and BIA must comply with the following terms and conditions which implement the reasonable and prudent measure described above. These terms and conditions are non-discretionary. The USFS, BLM and BIA shall do the following:

### **A. Road Maintenance**

1. Project Design Criteria

All applicable NFP S&Gs will be followed, as well as all applicable RMP and LRMP BMPs and WA findings and recommendations. Dispose of slide and waste material in stable, non- floodplain sites approved by a geotechnical engineer or other qualified personnel. Use stable sites beyond floodplain within RR's only if an interdisciplinary process has identified the area as stable and not susceptible to delivery to the adjacent stream. Provide erosion control to minimize sediment delivery to streams. Minimize disturbance of existing vegetation in ditches and at stream crossings to the greatest extent possible. Minimize soil disturbance and displacement, but where sediment risks warrant, prevent off-site soil movement through use of filter materials (such as straw bales or silt fencing) if vegetation strips are not available. Implement “may affect” soil-disturbing maintenance activities during dry conditions to the greatest extent practical and follow ODFW In-Water Work Timing guidelines, where relevant, except where the potential for greater damage to water quality and fish habitat exists if the emergency road maintenance is not performed as soon as possible. Replacement culvert design and installation should meet NFP and ODFW standards. Refuel power equipment (or use absorbent pads for immobile equipment) and prepare concrete at a location remote from water bodies (usually at least 100 feet distant) to prevent direct delivery of contaminants into a water body. Avoid application of dust abatement materials (for example, lignon or Mag-Chloride) during or just before wet weather and at stream crossings or other locations that could result in direct delivery to a water body (typically not within 25' of a water body or stream channel). Procurement of water used in dust abatement activities from pump chances should follow the PDCs of the “Pump Chance...Use” programmatic category. Limit dispersed use activities harming riparian vegetation, in-stream habitat, and otherwise causing incidental take of listed fish. Implement habitat rehabilitation and programs and incidental take reduction efforts including localized access closures where needed.

2. Reporting Requirements

For each FY, estimate the total road mileage by ownership (Federal or non-Federal), the total mileage Federally-maintained within a 5th field watershed. This should be displayed by showing the total proportion of Federally controlled roads within the watershed and total road mileage that is maintained, as well as total LAA mileage within each 5<sup>th</sup> field watershed. For dust abatement application provide the total road mileage within the watershed and where LAA abatement materials are applied. The preferred format for display would be using a map and appropriate tables. Develop a report that analyzes the potential adverse effects of dispersed use sites on ESA-listed fish species and the potential to minimize adverse effects within 1 year of the conclusion of this programmatic consultation if such a document does not currently exist. For each subsequent FY report by 5th field watershed efforts to limit effects of dispersed public

use on riparian and in-stream habitat and incidental take and efforts to restore RR and in-stream habitat previously altered by dispersed public use.

## **B. Aquatic and Riparian Habitat Projects**

### **1. Project Design Criteria**

In-stream projects should be designed by, and on-site construction supervised by, a professional fisheries biologist. Follow ODFW guidelines for timing of in-water work, where relevant, except where the potential for greater damage to water quality and fish habitat exists. Stabilize potential erosion areas and control sedimentation. All disturbed areas shall be rehabilitated and stabilized by seeding & planting with native seed mixes. Minimize the number and length of access points through riparian areas. Heavy equipment should be cleaned and free of leaks before used in the stream channel and time in which heavy equipment is in the stream channel should be minimized. Equipment should not be stored in stream channels when not in use to avoid effects of vandals, accidents, or natural disasters. Develop and implement an approved spill containment plan which includes having a spill containment kit on-site and previously identified containment locations. Refuel equipment (including chain saws and other hand power tools) at a location remote from water bodies (usually at least 100 feet distant) to prevent direct delivery of contaminants into a water body. Use whole trees or tree pieces that are 1.5-2.0 times the active channel width with, if available, attached root-wads. Do not use cable and fabrics in project design. Favor use of bioengineering techniques. No conifers should be felled in the riparian area unless conifers are fully stocked or if necessary (i.e., no other practical alternative) for safety. If necessary for safety, trees should be felled toward stream and left in place, or placed within the stream channel or floodplain at the site. When replacing culverts, follow NFP and ODFW guidelines for design and installation and minimize sedimentation potential by implementing appropriate measures to meet ODEQ turbidity standards.

### **2. Reporting Requirements**

For each FY estimate the total LAA miles of stream treated, LAA acres of Riparian Reserve treated, number of LAA fish passage culverts replaced, number of LAA culverts replaced in nonfish-bearing streams to accommodate a 1 in 100 year flood event within 5th field watersheds.

**C. Recreation Site, Trail and Administrative Structure Maintenance and Associated Public Use**

1. Project Design Criteria

Follow ODFW Guidelines for Timing of In-Water Work, where relevant, except where the potential for greater damage to water quality and fish habitat exists. Minimize adverse effects of brushing (loss of shade, bank stability, etc.) when trails or facilities occur within RR by leaving as large an uncut buffer as possible (usually at least a 10 foot buffer along intermittent and ephemeral streams, and a 20 foot buffer along perennial streams. Consider relocating mobile infrastructure away from potential hazard trees. Where relocation is not feasible, consider limbing or topping to alleviate the potential hazard. Where falling is deemed necessary directionally fall trees toward stream channels and RR (and leave the tree on site) where it is safe and feasible to do so. Do not remove down wood from sites (except to clear trail) within 1 site potential tree of a stream channel, unless fisheries personnel determine that LWM objectives for stream and Riparian Reserves in the proposed project area are met (as defined by WA and/or ROD S&G's). Take steps to prevent firewood gathering and theft within RR. For downed logs within the trail tread, retain the maximum feasible length. This could include using non-traditional methods or relocating trails. Prevent and minimize erosion from trails by designing and maintaining proper drainage structures with adequate spacing of waterbars especially before stream crossings. Dispose of small (<3 cubic meters) slide and slump materials in stable areas and away from stream channels. Refuel power equipment at a location remote from water bodies (usually at least 100 feet distant) to prevent direct delivery of contaminants into a water body. Fisheries, hydrology or other qualified personnel shall review proposed activities to evaluate whether actions fall within the scope of programmatic consultation. Limit developed site user activities harming riparian vegetation, in-stream habitat, or otherwise causing incidental take of listed fish and implement habitat rehabilitation and programs and incidental take reduction efforts including localized access closures where needed.

2. Reporting Requirements

For each FY estimate the total miles and/or acres of recreation/administration sites and trails maintained within a 5th field watershed. The estimate should also include the totals within the RR. Report number of hazard trees >16" dbh which are felled w/in RR. The preferred format for display would be using a map and appropriate tables. Develop a report that analyzes the potential adverse effects of public use of developed sites on ESA-listed fish species and the potential to minimize adverse effects within 1 year of the conclusion of this programmatic consultation if such a document does not currently exist. For each subsequent FY report by 5th field watershed efforts to limit effects of public use on riparian and in-stream habitat and incidental take and efforts to restore RR and in-stream habitat previously altered by developed site public use.

## **D. Fisheries, Hydrology, Wildlife, Botany and Cultural Program Activities**

### **1. Project Design Criteria**

Minimize amount of disturbance to fish by training personnel in survey methods that prevent or minimize harassment of fish. Contract specifications should include these measures. Snorkel surveys should follow a statistically valid sampling design or rely on a single pass approach. Avoid walking on fish redds. Coordinate with other local agencies to prevent redundant surveys. Locate excavated material from cultural resource test pits away from stream channels. Replace all material back into test pits when survey is completed. Use multiple stream sites for field trips to minimize effects on any given stream or riparian area.

### **2. Reporting Requirements**

For each FY, estimate the total LAA stream mileage surveyed and inventoried (categorized by method) within a 5th field watershed. The preferred format for display would be using a map and appropriate tables.

## **E. Non-Commercial Vegetation Treatments**

### **1. Project Design Criteria**

Maintain an untreated or modified treatment area within immediate riparian zone to prevent any potential adverse affects to stream channel or water quality conditions. The width of the untreated riparian zone will vary depending on site-specific conditions and type of treatment. Fisheries, hydrology or other qualified personnel shall review proposed activities to define the extent of untreated or modified treatment areas. During project development develop appropriate measures to ensure protection of aquatic and riparian values. Do not mix herbicide within 100 feet of any stream. Staging, mixing and loading operations must take place in areas where an accidental spill would not contaminate a stream or other waterbody. Refuel power equipment (or use absorbent pads for immobile equipment) at a location remote from water bodies (usually at least 100 feet distant) to prevent direct delivery of contaminants into a water body.

### **2. Reporting Requirements**

For each FY, estimate the total acres treated by chemical type within the RR and description of untreated buffer width. Also estimate total PCT and prescribed burning acres within a 5th field watershed, total PCT acres within RR by watershed, and description (i.e., width, treatment) of modified treatment/untreated buffer. The preferred format for display would be using a map and appropriate tables.

## **F. Pump Chance/Helipond Maintenance and Use**

### **1. Project Design Criteria**

Dispose of slide and waste material in stable, non- floodplain sites approved by a geotechnical engineer or other qualified personnel. Use stable sites beyond floodplain within RR's only if an interdisciplinary team has identified the area as stable and not susceptible to delivery to the adjacent stream. Provide the erosion control necessary to minimize the likelihood of sediment delivery to water bodies. Minimize disturbance of existing vegetation to the greatest extent practical, in particular, maintain shade, bank stability, and large woody material recruitment potential. Use sediment control measures such as straw bales, filter cloth, or sediment fences when conditions warrant their use. Maximize maintenance activities during late summer and early fall to best avoid wet conditions. Follow ODFW Guidelines for Timing of In-Water Work, where relevant, except where the potential for greater damage to water quality and fish habitat exists. Follow NMFS guidelines for screening pump intakes. Do not pump from streams that do not have continuous surface flow. When pumping water in all situations from streams, ensure that at least one-half the original streamflow volume remains below the pump site. Refuel power equipment (or use absorbent pads for immobile equipment) at a location remote from water bodies (usually at least 100 feet distant) to prevent direct delivery of contaminants into a water body. Fisheries, hydrology or other qualified personnel should work with engineering/fire personnel to review proposed activities to minimize potential effects to stream channel conditions and water quality. The decommissioning of unnecessary stream pump chances should be encouraged as should the switch toward the use of off-channel ponds.

### **2. Reporting Requirements**

For each FY, total the number (and type: pond or stream) of pump chances and state the number that were maintained in that year and the number that were used that year within 5th field watersheds by type.

## **G. Repair of Storm Damaged Roads (Including some ERFO Projects)**

### **1. Project Design Criteria**

All applicable NFP S&Gs will be followed, as well as all applicable RMP and LRMP BMPs. Dispose of slide and waste material in stable, non- floodplain sites approved by a geotechnical engineer or other qualified personnel. Use stable sites beyond floodplain within RR's only if an interdisciplinary team has identified the area as stable and not susceptible to delivery to the adjacent stream. Provide the erosion control necessary to minimize the likelihood of sediment delivery to water bodies. Maximize activities during late summer and early fall to best avoid wet conditions. Replacement culvert design and installation should meet NFP and ODFW standards. Minimize soil disturbance and

displacement, but where sediment risks warrant, prevent off-site soil movement through use of filter materials (such as straw bales or silt fencing) if vegetation strips are not available. A spill containment plan should be in place. Develop and implement an approved spill containment plan which includes having a spill containment kit on-site and previously identified containment locations. Refuel power equipment (or use absorbent pads for immobile equipment) at a location remote from water bodies (usually at least 100 feet distant) to prevent direct delivery of contaminants into a water body.

2. Reporting Requirements  
None currently identified.

## **H. Road Decommissioning, Obliteration, Storm-Proofing and Inactivation**

1. Project Design Criteria  
A fisheries biologist and/or hydrologist should have substantial influence over the design and implementation of each LAA project. Dispose of slide and waste material in stable, non-floodplain sites. Disposal of slide and waste material within existing road prism or adjacent hillslopes is acceptable to restore natural or near-natural contours, as approved by a geotechnical engineer or other qualified personnel. Minimize disturbance of existing vegetation in ditches and at stream crossings to the extent necessary to restore the hydrologic function of the subject road. Minimize soil disturbance and displacement, but where sediment risks warrant, prevent off-site soil movement through use of filter materials (such as straw bales or silt fencing) if vegetation strips are not available. Conduct activities during dry conditions. Maximize activities during late summer and early fall to best avoid wet conditions. Follow ODFW Guidelines for Timing of In-Water Work, where relevant, except where the potential for greater damage to water quality and fish habitat exists. Refuel power equipment (or use absorbent pads for immobile equipment) at a location remote from water bodies (usually at least 100 feet distant) to prevent direct delivery of contaminants into a water body. Develop and implement an approved spill containment plan which includes having a spill containment kit on-site and previously identified containment locations.
2. Reporting Requirements  
For each FY, estimate the total road mileage decommissioned, obliterated, stormproofed, and/or inactivated by category within a 5th field watershed. This should be displayed by showing the total amount of Federally- controlled road within the watershed, the total mileage decommissioned, etc., within the watershed, and total road mileage within RR in the watershed that been decommissioned, etc. The preferred format for display would be using a map and appropriate tables. Because of



inconsistency in terminology, action agency should provide definition of each category used in monitoring report.

## **I. Telephone Line and Power Line Renewal Special Use Permits and Rights-of-Way Grants**

### **1. Project Design Criteria**

Prior to issuance of special use permit, a fisheries biologist shall make written determination of proposed action and any i/i effects of the action. Apply applicable PDCs from Road Maintenance programmatic category. Streams should be protected to the greatest extent possible from concrete dust and wash water. Concrete preparation will occur a minimum of 150 feet from all water bodies. Minimize brushing by leaving a 10 foot buffer along intermittent and ephemeral streams, and a 20 foot buffer along perennial streams. Hazard trees should be directionally felled toward streams and riparian reserves where it is safe and feasible to do so. Do not remove cut hazard or blowdown trees in RR. If blowdown trees in RR need to be cut, keep lengths as long as possible.

### **2. Reporting Requirements**

For each FY report by 5th field watershed provide the miles of LAA road maintained (separately by Federal and non-Federal ownership), acres of LAA vegetation treated (separately by Federal and non-Federal ownership), acres of brushing within RR, and number of hazard trees cut in RR.

## **J. Instream Mining Activities**

### **1. Project Design Criteria**

Conduct an IDT (typically involving a hydrologist, mining technician, and fisheries biologist) review of each NOI and document to determine: 1) Stream size in relation to volume to be mined; 2) if operations will be confined to the stream channel; 3) if LWM will be removed from the stream channel; 4) presence of early life stages of salmonids; 5) downstream effects; 6) if dredging will slow recovery or further degrade the listed parameters of WQL streams; 7) if channel stability is sensitive to dredging activities; 8) presence of special salmonid habitat designations; 9) fuel storage and use; 10) whether early spawning adults would be attracted to dredge tailings; and 11) presence of other mining or associated activities within 1/4 mile. Initiate a conservation education program with the mining public to better protect water quality and fish habitat by: 1) Attending meetings; 2) distributing "Suction Dredging in the National Forests" to campgrounds, visitors centers, mining businesses, and previous NOI permit holders; and 3) mailing informational letters to previous NOI permit holders. Within 15 days of receipt of a NOI, mail an NOI response letter which, at a minimum, informs the

operator of: 1) The presence of listed, proposed, or candidate salmonids within 1/4 mile; 2) ODSL Essential Salmon Habitat, if relevant; 3) reasonable and prudent measures that can be taken to protect listed, proposed or candidate salmonids; 4) the need for consistency with their State permit requirements (paraphrase key provisions); and 5) their responsibilities under the ESA to avoid take of coho salmon. The NOI response letter will request any additional information that may be needed to determine whether the activity requires a POO.

2. Reporting Requirements

For each NOI, record the date of receipt and the date the NOI response letter was mailed. Maintain a 1" = 1 mile scale map showing the location of all NOI's to identify the overall extent and concentration of activities. For each action agency, annually for each of five years after completion of this programmatic consultation, monitor two affected streams with special habitat designations, WQL status, or high fish productivity areas identified in WA's. Monitoring each stream will involve at least two site visits; one during and one immediately following the operating season and will assess 1) The likelihood that fry had emerged after the State-designated operating season; 2) note violations of PDC's and State permit requirements; and 3) estimate the total volume worked.

If you have any questions, please contact Frank Bird of my staff in the Oregon State Branch Office at (541) 957-3383.

Sincerely,



William Stelle, Jr.  
Regional Administrator

cc: Bill Hudson, Coos Bay BLM District  
Dan Delany, Rogue-Siskiyou National Forest  
Randy Frick, Rogue-Siskiyou National Forest  
Mike Cady, Siuslaw National Forest  
Travis Hunt, BIS  
Chuck Wheeler, Roseburg BLM District  
Craig Tuss, US Fish and Wildlife Service